

GOVERNOR PENCE SIGNS LEGISLATION REFORMING MARION COUNTY GOVERNMENT

INDIANAPOLIS—Governor Mike Pence today signed Senate Enrolled Act 621, concerning reforms to Marion County Government and issued the following statement:

“Senate Enrolled Act (SEA) 621 came to my desk in the midst of no small amount of controversy. Given the competing views of this legislation, I have made a point to meet with supporters and opponents and have given careful consideration to their viewpoints. Hoosiers with differing views on this legislation have made thoughtful arguments, and I respect the opinions expressed by both sides.

“Unfortunately, what began as a serious effort to strengthen Indianapolis’ economic and fiscal condition got clouded by politics. In making my decision, I focused exclusively on the policy and what would be in the best interest of the people of Indiana.

“Despite my misgivings about certain aspects of SEA 621, I am signing this legislation because it serves the public interest by granting to the current Mayor of Indianapolis—and any future Mayor of either political party—the authority to manage the City’s finances in a manner that protects taxpayers and encourages economic development and job creation.

“The Indiana General Assembly was responsible for creating the Unigov statute in 1969 and has the legal authority to revise that statute in 2013. It is important to remember that Indianapolis is our capital city and, as such, our state government has an obligation to ensure that it is fiscally strong and capable of operating like a world-class city. After 44 years without significant reform, it is certainly worthwhile for our state legislature to revisit that governance structure to ensure that the interests of Hoosiers who live in our capital city are being well-served.

“But this isn’t just about Indy. The economic vitality of our state depends to a great degree on how successfully our capital city serves as a center of commerce and entertainment and attracts visitors and businesses to Indiana. Our state government has an obligation to ensure that we continue to recruit and maintain top employers, attract more world-class events such as the Super Bowl and retain our outstanding professional sports franchises like the Pacers, the Colts, the Fever, the Ice and the Indians.

“In Indianapolis, the Mayor is responsible for achieving these objectives for the city. But to achieve them the Mayor must have sufficient authority to manage the finances of the city in a way that protects taxpayers, encourages economic development, creates jobs and provides for the public safety of the residents of Indianapolis. The Mayor needs the authority to manage the issues for which we hold him or her individually accountable.

“A careful examination makes it clear that the Mayor of Indianapolis does not currently possess the authority to advance these important goals for our capital city. For this reason, I decided to sign SEA 621 into law.

“There is ample evidence in the structure of Unigov and the fiscal condition of Indianapolis to demonstrate that the Mayor does not presently have the authority required to do his job. The City of Indianapolis is facing significant financial challenges. For example

- Despite attempts to adopt a fiscally balanced budget earlier this year, the City reports that the current budget will result in significant deficit spending in 2013 and a substantial reduction in the City’s budget reserves going forward.

- At least one public agency in Indianapolis is reported to have exceeded its budgetary authority by more than \$17 million over the last three years.
- The City-County Council passed a resolution to assess a \$15 million payment-in-lieu-of-taxes on the Capital Improvement Board (CIB) to plug a \$65 million shortfall in the City's budget, jeopardizing the CIB's ability to support the Pacers, Colts, Indians, Fever and Ice, as well as the city's convention business.

"It is clear that the Mayor of Indianapolis should be given the authority to manage the finances of the city in an effective and responsible manner.

"Under SEA 621, by December 1 of each year, each City office, department or agency must submit to the City Controller a proposed schedule for its spending. The Controller must then make a determination by December 15 of each year regarding whether the revenues for the next calendar year will support the appropriations adopted by the City-County Council. The legislation is quite clear that if the anticipated revenues are adequate to support the spending of the Council, then the Controller 'shall approve the proposed allotment schedule as submitted by an office, department, or agency.' If the City Controller determines that the revenues anticipated are not adequate to support the spending, then the Controller is directed to 'revise the proposed allotment...to reflect anticipated revenues.' The Controller has an obligation to report any decisions to the County Auditor and City-County Council. In addition, if he or she proposes to reduce spending by more than 5 percent of the total appropriation, then he or she must submit a fiscal justification to the City-County Council before the beginning of the allotment period.¹ This new authority will protect taxpayers by ensuring that deficit spending can be addressed in an open and public manner before it occurs.

"SEA 621 also includes commonsense reforms that give the Mayor of Indianapolis more flexibility to respond to economic development opportunities by reforming the Metropolitan Development Commission and eliminating the Council's power to assess a tax on the CIB, which could jeopardize the city's ability to support the Pacers, Colts, and other professional sports franchises.

"With those reforms, the Mayor will possess the authority to manage the finances of the city in a responsible manner that furthers the public interest of residents of Indianapolis, by ensuring a solid fiscal foundation for economic growth. By enacting these important budgetary reforms, voters also will be able to fairly hold one elected official, the Mayor, accountable for the financial health of the city.

"While I am signing SEA 621 because it strengthens the Mayor's financial authority and protects taxpayers, it is regrettable that this legislation also includes the removal of the four at-large seats on the City-County Council. While there are certainly valid arguments in favor of eliminating these at-large seats, including better representation and government efficiency, it is impossible to escape the

¹ It has been suggested that granting allotment authority to the City Controller may impermissibly give the Mayor a veto power over the budgets of certain judicial officers or constitutional county officers in violation of Ind. Code 36-3-4-14(b)(1). However, recognized principles of statutory construction presume that the legislature was aware of this provision in the Indiana Code and intended that its terms could be reconciled with the new provisions of SEA 621. Further, it is important to note that the City Controller may revise the allotment schedule of an office, department or agency only if he or she determines that anticipated revenues are not adequate to support the appropriation. Finally, the Controller must justify any allotment in excess of 5 percent, thereby ensuring public transparency over the revision and avoiding a situation where the Controller can withhold an entire appropriation from a constitutional county officer or judicial officer.

characterization that this legislation appears partisan and politically motivated since all four at-large seats are currently held by the opposing political party.

“The truth is that both political parties have attempted to eliminate these four at-large seats on the City-County Council at one time or another.² Both political parties have made principled arguments that the citizens of Indianapolis and their interests would be better served by eliminating these at-large seats altogether. If the elimination of at-large seats on the City-County Council is a partisan act, then it is one that has been advocated by both political parties over the years.

“I am concerned that signing this legislation will eliminate four at-large seats that are currently held by one political party. However, I am consoled by the fact that nothing in this legislation removes the incumbent Council members before their terms expire or erodes the right of voters to express their will to elect the Mayor and City-County Council majority of their choosing in 2015. Were it otherwise, I certainly would have vetoed this bill.

“For all of Indiana to prosper, we must ensure that the City of Indianapolis continues to deliver world-class services, recruits and maintains top employers, and continues to offer employment and entertainment opportunities for all Hoosiers.”

² Baird v. Indianapolis, 976 F.2d 357 (7th Cir. Ind. 1992) (filed by three Democrat members of the City-County Council); and Representative Phil Hinkle’s (R-Indianapolis) proposed amendment to SB 526 in 2011 to remove the four at-large seats.